



C.R.P (NPD) No.3467 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P (NPD) No.3467 of 2017
and
C.M.P.No.16136 of 2017

M.Krishnamoorthy

...Petitioner

..Vs..

C.Prabhu

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of The Constitution of India, against the fair order and decretal order of the learned Principal District Munsif, Dharmapuri dated 31.07.2017 made in I.A.No.18 of 2017 in unnumbered A.S.No.....of 2017.

For Petitioner : M/s.G.Sumitra

For Respondent : Mr.C.Munusamy

ORDER

This Civil Revision Petition has been filed questioning the order dated 31.07.2017 in I.A.No.18 of 2017 in unnumbered A.S.SR.No.... of 2017 by the learned Principal District Judge, Dharmapuri.



C.R.P (NPD) No.3467 of 2017

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2. The petitioner was the defendant in O.S.No.28 of 2014 which was on the file of the Sub-Court at Arur.

3. Such suit in O.S.No.28 of 2014 had been filed by the respondent herein for Specific Performance based on a registered Agreement of Sale dated 26.07.2011. The total consideration for the sale of the property by the revision petitioner herein was Rs.8.25 lakhs. Even at the time of agreement, a sum of Rs.7.5 lakhs had been paid by the respondent herein to the petitioner. Thereafter, the parties went to trial. The suit was decreed directing the Specific Performance.

4. Execution Petition was also filed by the respondent. Counter was also filed by the petitioner herein. At that stage, with a delay of 103 days, he filed the First Appeal. The application to condone the delay of 103 days came up for consideration in I.A.No.18 of 2017 on 31.07.2017 before the Principal District Court, Dharmapuri. The learned Principal District Judge dismissed the said application necessitating the filing of the present revision petition.

4. Among the reasons given to condone the delay of 103 days, it had been stated that the revision petitioner was bed ridden and not able to contact his advocate to file the First Appeal and therefore there was a



C.R.P (NPD) No.3467 of 2017

delay and that the delay should be condoned.

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5. This fact that the petitioner herein was bed ridden is a fact known only to the petitioner. To establish and substantiate that fact, he should have grazed the witness box and spoken about the same. For some reason he had not done so.

6. It is also pointed out by Mr.C.Munusamy, learned counsel for the respondent that the respondent herein had proceeded to file an Execution Petition and had also deposited the entire sale consideration and also deposited the non judicial stamp papers in the Court, so that Specific Performance can be effected, if not by the petitioner, by the Court.

7. The parties have travelled to a considerable distance. The fact that the agreement of sale is registered itself states in the face of the petitioner herein. Though a reason had been given for delay, to substantiate that particular reason the petitioner should have grazed the witness box. He has not done so. No document had been produced before the learned Principal District Judge, Dharmapuri in the form of medical receipts or medical prescriptions or any certificate of any Doctor to substantiate the fact that the petitioner was bed ridden.



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C.R.P (NPD) No.3467 of 2017

8. In the absence of all these facts, no Court can accept the reasons given which should be proved in manner known to law. That has not been done. It is not the case of the petitioner that opportunity was not granted. I find no reasons to interfere with the order of the learned Principal District Judge.

9. In the result, this Civil Revision Petition is dismissed.

10.02.2022

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Speaking (or) Non Speaking Order
Internet : Yes



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C.R.P (NPD) No.3467 of 2017

C.R.P (NPD) No.3467 of 2017 and
C.M.P.No.16136 of 2017